

190e-009
Lee Co.

Chancery Causes: Bertha M. Maness by tc vs. Floyd Robinson, bc
gdn

Johnson, Duncan

CA Estate Dispute
T-Property

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia.

Your oratrix Bertha M. Maness, nee Bertha M. Johnson, an infant, who sues by Arthur A. Maness her receiver and next friend, and your oratrices Alpha B. Johnson, Lura Johnson and Motie Johnson infants under the age of twenty-one years, and whomsue by the said Arthur A. Maness their next friend, would respectfully represent and show unto your honor, that the said Bertha M. Maness, Alpha B. Johnson, Lura Johnson, and Motie Johnson are children and heirs at law of H. P. Johnson, deceased, to whom a considerable personal and real estate descended from their said father in said county; that on the 15th day of October, 1900 one Floyd Robinson was appointed and qualified as guardian for said minors, ^{in the Lee County court} and executed in said court a bond in the penalty of Six Hundred Dollars with Alfred Johnson surety, conditioned according to law; and the said guardian thereupon took charge of the said personal and real estate belonging to the said minors from which source he has received considerable sums of money, and including the rents and profits of their real estate since his appointment up to the present time, and still is in charge thereof; that the said guardian has never made a settlement of his guardianship account. The said H. P. Johnson ^{the time of} at his death left a widow named _____ Johnson, who afterwards married, and is now the wife of, the said Floyd Robinson, and she is entitled to dower in the said real estate.

The object of this bill therefore is, to compell the said Floyd Robinson to settle his guardianship account before a commissioner of this court, and to ascertain what sums of money have come into his hands as such guardian, and what by due dilligence would have come into his hands as such guardian, and to have him account for the same, and that the interest of the said Bertha M. Maness, she having married the said Arthur A. Maness, and he having been appointed her receiver, be paid over to the said Arthur A. Maness, her receiver as aforesaid, and that the amounts due the said wards be ascertained and kept safely at interest for the ^{ir} benefit until they shall be entitled to receive the

same, and if necessary that the said guardian for the said three
and
last mentioned wards be required to execute a new, sufficient bond
to cover his liabilities on account thereof; and that the said
Arthur A. Maness, receiver for the said Bartha M. Maness, be permitted
to take charge of the said interest of the said ward in the said
personal estate as well as in the said real estate and control the
same for her. To this end the complainants make the said Floyd
Robinson and Alfred Johnson the parties defendants to this bill,
and ask that they be required to answer the same, but not under
oath, answer under oath being expressly waived; and that upon a hear-
ing the relief above prayed for be granted, together with all such,
other, further and general relief as may be necessary in the premises,
and your complainants will ever pray &c.

Over Noel. p.g.

Bertha M. Mancey by re.

0.5 } Bill in Chancery.

Floyd Robinson, Guardian
vs et al.

1906 1st April Rules

Bill, ^{filed} Sp. is entered &

D. N.

" 2nd April Rules

D. N. confirmed & cause
set for hearing.

Costs:

Clerk \$4.95

Shff. 1.20

Ally 1.50

Dee 3.42

Witr. 18.00

Comr.

In the Circuit Court for the County of Lee
to-wit:

THE ANSWER OF alpha. B. Johnson, Laura Johnson
and Motie Johnson

infant under the age of twenty-one years, by M. G. Ealy,
guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Lee, by Bertha M. Mauss by etc and others.

The respondent, reserving to ~~themselves~~ the benefit of all just exceptions to the said bill, for
answer thereto, answering by said guardian ad litem, say that they are infants of
tender years, and by reason of such disability are incapable of understanding, or of
taking care of their rights and interests, they therefore commend the same
to the protection of the court, and prays that no decree may be pronounced which will tend
to their prejudice.

And having answered, the respondent pray to be hence dismissed with their
reasonable costs, in this behalf expended; and they will ever pray, &c.

M. G. Ealy - Guardian ad litem.

p. d.

County
OF
Lee } ss.

This day, M. G. Ealy, whose name is signed to
the foregoing answer, personally appeared before me, H. C. J. Ewing Clerk
and made oath that the statements made therein, so far as they depend upon his own knowl-
edge, are true, and so far as they depend upon knowledge derived from others he believes them
to be true.

Given under my hand, this 31st day of aug. 1906,

H. C. J. Ewing, Clerk.
By M. G. Ealy, D.C.

Flourence Robinson et

adv. }

ANSWER
OF
INFANT DEFENDANT.

Bertie M. Mowbray

Filed at 1st Sept Rules
1906.

G.A.L. Fee £5.00

1. To the Honorable H.A.W. Skeen, Judge of the Circuit Court of
2. Lee County, Virginia:

3. The answer and demurrer of Floyd Robinson to a bill exhibited
4. against him and Alfred Johnson in this Honorable Court by Bertha
5. M. Maness, Alpha B. Johnson, Lura Johnson and Motie Johnson, who are
6. infants and who sue by Arthur A. Maness as their next friend;

7. Respondent says that said bill is not sufficient in law to call
8. upon him to answer and he demurs to the same and prays judgment
9. on his said demurrer;

10. Respondent says that it is true that Bertha M. Maness, Alpha
11. B., Lura and Motie Johnson, are children and heirs at law of H.P.
12. Johnson, deceased; it is true that at the time of his death the
13. said H.P. Johnson owned a very respectable personal estate, but it
14. is not true that he owned any considerable amount of real estate
15. if he owned any. It is true that he had a deed for two small tracts
16. of land from one T.J. Fisher, but since the death of said Johnson
17. suit was brought by one J.V. Walden against the administrator and
18. heirs at law of the said H.P. Johnson, the object of which was to
19. sell said real estate for the payment of debts alleged to be due
20. by T.J. Fisher, and for that purpose to set aside the deed made by
21. the said Fisher to the said Johnson. Such proceedings were had in
22. that suit as resulted in a decree rendered by this Court, setting
23. aside said deed in so far as it affected the debts due by the said
24. Fisher, and under that decree said lands were sold.

25. The personal estate of the said H.P. Johnson amounted to about
26. the sum \$1200.00, after the payment of the debts due by him and
27. his widow Florence Johnson, who was likewise the administratrix of
28. the said H.P. Johnson, having no home, conceived the idea that it was
29. to the best interests of herself and children that this money should
30. be invested in land which would furnish them a home and upon which
31. they could live and make a decent and comfortable support, and thus
32. believing she purchased from one J.W. Glass a tract of land at the
33. price of \$1500.00. She paid down on this land at the time of the
34. purchase, \$900.00, and executed her notes for the residue. She

35- afterwards paid on these notes the sum of about \$300.00 out of the
36. estate of the said H.P. Johnson, which was all the money that she
37. could raise belonging to said estate; and in the mean time, as al-
38. leged in said bill your respondent had married the said Florence
39. Johnson and had been appointed Guardian for said infants. The
40. balance of said money becoming due and said J.W. Glass, having dies
41. his administrators commenced pressing for their money, and your re-
42. spondent, aided his said wife in paying for said land and furnished
43. to her the sum of about \$300.00, or rather paid that sum for her
44. and at her request on the purchase price of said land.

45- Your orator is advised and he alleges and avers that one third
46. of the money which was paid by the said Florence Johnson out of
47. the estate of her deceased husband was absolutely hers and that she
48. is entitled to the value in said land of that amount of money, and
49. her further avers that she is entitled to the sum of \$300.00 in
50. value of said land which he paid for her on the purchase price thereof
51. and at her request, and that the same is a lien in his favor on said
52. land; or if he is mistaken in this and should said children be given
53. the benefit of the payment which he made on said land, then that
54. in any settlement of his guardianship account he should be duly
55- credited with that sum of that a lien should be decreed in his fa-
56. vor on said land for the amount he paid thereon.

57- Your respondent will now further show your Honor that he and
58. his wife went upon said land about the year 1899 and took all of
59. said children with them, the oldest child at that time being only
60. 10 years old, and the youngest one 2 years old; that they have
61. all lived together from that time up to the marriage of the said
62. Bertha M. and that he and his said wife have comfortably supported
63. clothed ^{and educated} and taken care of said children at considerable expense,
64. which he alleges to be worth at the least \$50.00 a year for each of
65- said children, and he asks that this sum should be credited to him
66. as guardian of said children. He admits that he has used, cultivated
67. and enjoyed said land since his appointment as guardian, and if he
68. is given credit for the support and maintainance that he has fur-
69. nished said children then he should be charged with reasonable rents

70. thereon

71. Your respondent will now further show your Honor that the said
72. J.W. Glass made a deed by which he conveyed said land to the said
73. Florence Johnson and her children jointly, the effect of which deed
74. as he is advised, is to give to the said Florence such interest in
75. said land as she paid for, and to give to the said children such in-
76. terest in said land as was paid for out of their interest in the
77. estate of their deceased father.

78. Your respondent further alleges and avers that the investment
79. made in said land by Florence Johnson, widow as aforesaid, for her-
80. self and her children was a wise and beneficial one, and that said
81. land is worth much more now after furnishing a home to them, than
82. she paid for it.

83. Your respondent has no objection to a settlement of his account
84. as guardian of said infants. It is proper to state that your re-
85. spondent has never made a settlement; that he never received any-
86. thing to be accounted for until very recently, in fact he has never
87. received it yet but he is informed by his attorneys that they have
88. collected for him out of the sale of the Fisher land the sum of
89. about \$175.00, and he came to them to receive, but just at that
90. time this suit was instituted and he then thought it was better to
91. let the money remain in the bank where his attorneys have it de-
92. posited, and he is ready at any time to settle his account and pay
93. over to said parties anything that may be due from him in his offi-
94. cial capacity or otherwise.

95. Respondent says that the said Florence Johnson is a necessary
96. party to this suit, and he prays that the Complainants be required
97. to amend their bill making her a party to the same, and that her
98. interests in said tract of land may be settled and adjusted.

99. And now having answered said bill as fully as he is advised
100. that it is material or necessary to answer the same, he prays to
101. be hence dismissed with his costs &c.

Duncan & Corliss

Floyd Robinson
was $\frac{1}{2}$ Aug.

Be the Maunet also
by T.C.

Filed in apur court
and by leave thereof
May 22, 1906.

J. H. T. Ewing,
Clerk.

Bertha M. Maness by ~~ss~~ *Arthur A. Maness for next friend* Plaintiff.

vs.

In Chancery

Floyd Robinson, Guardian &c. *et al.*

Defendants.

This cause came on again to be heard upon the papers formerly read in the cause, and the report of M. G. Ely, special commissioner filed in the cause Aug. 31st, 1906, and was argued by counsel.

On consideration thereof, it is adjudged, ordered and decreed that said report be and the same is hereby confirmed. And pursuant to said report ^{that} the plaintiff Bertha M. Maness recovered against the defendant Floyd Robinson her guardian, and Alfred Johnson his surety on his bond as such guardian, ~~in~~ the sum of \$179.49 with interest from this date until paid, which sum is decreed to be paid to Arthur A. Maness receiver for the said Bertha M. Maness who is an infant; and that Alpha B. Johnson recover against the said Floyd Robinson and Alfred Johnson, his surety as aforesaid, the like sum of \$179.49, with interest from this date until paid; and that Laura (alias Lura) Johnson recover against the said Floyd Robinson and Alfred Johnson his surety as aforesaid, the like sum of \$179.49 with interest thereon from this date until paid; and that Mattie (alias Motie) Johnson recover against the said Floyd Robinson and Alfred Johnson his surety as aforesaid, a like sum of \$179.49 with interest from this date until paid; and that the plaintiff recover against the said Floyd Robinson and Alfred Johnson his surety as aforesaid, the cost^{ies} of this suit, to be taxed by the clerk. The said recovery^x in favor of Alpha B. Johnson, Laura Johnson (Alias Lura Johnson,) and Mattie Johnson & Alias Motie Johnson) shall be paid to their guardian, they being infants, or should the said Floyd Robinson remain their guardian the same shall be held by him for them as their guardian, and kept at interest until they arrive at the age of twenty-one years ~~of age~~ respectively, or until they have some other legitimate guardian or receiver appointed to take charge of the same. ^{And nothing further remaining to be done in this cause at the present time,} ~~And nothing further remaining to be done in this cause at the present time,~~ it is ordered that the same be retired from the docket, with leave to any party interested to have the same re-instated upon the issue docket for any legitimate purpose that may arise in the cause.

Bertha M. Mauss exr.
vs Decree Final
Mayd Robinson Guard
Veto
all.

Entered in C.O.B. #
8, page 192 re-

Enter this Decree.
At a witness

Sept 17 1906.

Bertha M. Maness, ^{et al} by &c.

Plaintiff^s.

vs.

In Chancery.

Floyd Robinson, Guardian &c. ^{et al}

Defendant^s.

Upon the calling of this cause the defendant, Floyd Robinson, asked leave to file his answer and the same is accordingly filed, and thereupon said plaintiff filed exception to said answer, and the cause coming on to be heard upon the bill, demurrer to the bill, the answer of the defendant, Floyd Robinson, and exceptions to said answer, ~~and~~ was argued by counsel. On consideration of which, said demurrer and said exceptions are each overruled, and the plaintiff replied generally to said answer. And the court deeming it necessary that the account of Floyd Robinson, guardian for the plaintiff, be settled, it is adjudged, ordered and decreed that M. G. Ely be and he is hereby appointed a commissioner, whose duty it is made to take, state and settle the account of Floyd Robinson, Guardian of said plaintiff, charging him with all sums with which he is properly chargeable, and giving him credit for all proper disbursements made by him. Said commissioner will further hear evidence and ascertain whether or not the investment made by Florence Robinson, mother of said plaintiffs, of money derived from the estate of her deceased husband in land for a home for herself and children was a beneficial one, how much she paid, what, if anything was paid by the said Floyd Robinson, on the purchase price of said lands, the reasonable rents and profits of said land, and any other matter upon which he may be requested to hear evidence or make report, or that he may deem pertinent. He will reduce any evidence heard by him to writing and file it with his report. He will report his action hereunder to court. And this cause is continued.

Bertha M. Mares, et
-al by R.C.
vs Decree 1st.
By
Hayes Robinson et als.

Entered in CB 13.
#8 page 159

Enter this Decree.
H.A. Co. S. Lee
May 23rd 1906.

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Wednesday, the 23rd day of May, 1906.

Bertha M. Maness, by &c., et al,

Plaintiffs.

vs.) In Chancery

Floyd Robinson, Gdn. &c., et al,

Defendants.

Upon the calling of this cause the defendant, Floyd Robinson, asked leave to file his answer and the same is accordingly filed, and thereupon said plaintiffs filed exceptions to said answer, and the cause coming on to be heard upon the bill, demurred to the bill the answer of the defendant, Floyd Robinson, and exceptions to said answer, was argued by counsel. On consideration of which, said demurrer and said exceptions are each overruled, and the plaintiff replied generally to said answer. And the Court deeming it necessary that the account of Floyd Robinson, guardian for the plaintiffs, be settled, it is adjudged, ordered and decreed that M. G. Ely be and is hereby appointed a commissioner, whose duty it is made to take, state and settle the account of Floyd Robinson, Guardian of said plaintiffs, charging him with all sums, ^{with which he is properly charged} and giving him credit for all proper disbursements made by him. Said Commissioner will further hear evidence and ascertain whether or not the investment made by ~~X~~ Florence Robinson mother of said plaintiffs, of money derived from the estate of her deceased husband in land for a home for herself and children was a beneficial one, how much she paid, what, if any thing, was paid by the said Floyd Robinson, on the purchase price of said lands, the reasonable rents and profits of said land, and any other matter upon which he may be requested to hear evidence, or make report, or that he may deem pertinent. He will ^{hear} ~~render~~ any evidence heard by him to writing and file it with his report. He will report his action hereunder to court, and this cause is continued,

A. copy,

Teste: H. E. Ewing, Clerk

Bertha M. Maness,
by vs., et al
vs. { Decree
Floyd Robinson Edw.
vs., et al

Copy for return

Excited by Holivins
at true copy of the
within Decree to
Mell. Ely this
The 22 day of Jan 1906
C. E. Drury D.
for P. M. Ball & S. C.

(1)

The depositions of Floyd Robinson and others taken before me M.G.Ely Special Commissioner in my office in the town of Jonesville Virginia, on the 24th day of August, 1906, pursuant to agreement, which depositions are intended to be read in evidence in behalf of the defendant in a matter of account pending before me in the Chancery cause of Bertha M. Maness by &c. vs. Floyd Robinson Guard &c. et al.

Present: James W. Orr of counsel for plaintiff;

Geo.P.Cridlin, of counsel for defendant.

Floyd Robinson a witness of lawful age being duly sworn deposes as follows:

Q.1.-- Are you the defendant in this cause, and if so when were you appointed guardian for Bertha M., Alpha B., Lura and Motie Johnson?

A.-- I am defendant in this case. I was appointed Guardian for said Children about the 15th day of October, 1900.

Q.2.-- What was the respective ages of said infants at the time of your appointment as their guardian?

A.-- The youngest was two years old at that time, the next one was four, the next one something like six, and the oldest eight or nine.

Q.3.-- Did the mother of these children, while she was administrator of the estate of H.P.Johnson, deceased, make any investment of the funds belonging to said estate, and if you state that she did please state what investment it was that she made, when she made the same, and how much money she paid out thereon, and who this money belonged to?

Obj.-- This question and any answer thereto is excepted to because irrelevant and immaterial, it being the duty of the Guardian to collect from the administrator any money in her hands belonging to the infants, and no authority is shown to have been given for the investment of said funds in real estate.

J.W.Orr for plaintiff.

A.-- She bought tract of land in this County from J.W.Glass, I think this purchase was made in the year 1898, and in buying the land she used money in her hands as the administrator of the estate of H.P.Johnson. She was the widow of said Johnson, and my wards

(2)

are his children. She paid out on this land out of said funds the following sums \$882.75 in cash when the purchase was made. she then paid off the first note for \$200.00 which was due in six months from its date, and I suppose paid the interest fro that time though I do not know just at what time it was paid. On the second note for \$200.00 she paid the sum of \$217.12, which lacked the sum of \$4.64, of paying off said note in full both principal and interest. At this pint she had exhausted the funds belonging to said estate, and when the administrators began to press for payment of the balance due on the land, to save the same for sale, at the request of Florence Johnson, I paid the following sums which fully discharged the debt against the land, to-wit: Oct. 15, 1900 \$4.64, bal. on the second note; Jan. 8, 1902, \$120.00, on last note Apr. 24, 1902, \$60.00; Sept. 15, 1902 \$23.00; May 6, 1904 \$40.00 Sept. 15, 1904, \$20.00; all these payments except the first of \$4.64 were on the last note on said land.

I herewith file a certified copy of the deed made by J.W.Glass for said land marked Exhibit No.1, I also filed the three notes for said land marked respectively Nos. 2, 3 and 4. I also file receipts which I took for three payments made by me, to-wit the payment of \$120.00, \$60.00 and \$23.00. I did not take receipts for the last two payments made by me but they are credited on the back of said last note. I marked these receipts Nos. 5, 6 and 7 respectively. I also file a calculation, ~~xx~~ with regard to the second of said notes which was sent to me by Mr. J.W.Glass, which also contains a receipt for part of maoney paid on that note. I mark* this paper Exhibit No. 8.

Obj.-- The foregoing answer is further excepted to as to any payments that may have been made on said land by the defendant Floyd Robinson, the same being voluntary upon his part, and he cannot set up any claim in that manner against the said tract of land or against the infants for such payments made by him.

J. W. Orr for plaintiff.

Q.4.-- Are you in possession of said land, if so how long have you been in the possession of the same?

A.-- I am in possession of same and have been about 7 years. I

moved on the land in Sept. 1899.

Q.5.-- Have you been using said land and getting the rents and profits from same from that time down to the present?

A.-- I have been using and cultivating said land from that time down to the present.

Q.-- Did your said wards live with you on~~x~~ said land? ~~xxxxxxx~~
and-if so who supported and maintained them.

Obj.-- Excepted to as irrelevant and immaterial.

J. W. Orr for plaintiffs.

A.-- They did live with me on the land, and I furnished them their support and maintenance.

Q.7.-- Please state what kind of support you furnished to said children, whether or not it was good and substantial, and whether or not you educated them, and state what said support and maintenance, such as you furnished said wards was reasonably worth?

Obj.-- Excepted to for the same reasons, and no authority is shown to have been given by the Court for such support and maintenance.

J. W. Orr for plff.

A.-- I gave them a reasonably good support and school them. I sent them to the public schools, and the older one Bertha I sent to Big Stone Gap to school and she has a very good education. I should think such support and maintenance was worth reasonably \$50.00 each per year, this is an average.

Obj.-- The foregoing answer and the action of the guardian therein given is further excepted to because no such state of facts are shown to have existed as to justify the action of the guardian in his expenditures under the statute, and because it is not shown whether the expenditures were out of the annual income of the said wards, or out of the corpus of their estates.

J.W.Orr, for plff.

Q.8.-- Please state whether or not the support and maintenance given by you to said wards was such as their station in life entitled them to, whether or not you made any unnecessary expenditures for them, and whether or not said children were able to do anything towards their own support?

Obj.-- Excepted to for the same reasons contained in the foregoing exception.

J.W.Orr for plff.

A.-- I think I gave them just such support as they should have taking in consideration their station in life. I one sense I let them have too much for they run me in debt a sight at the store. These children were all girls and they did some work about the house and they did some work in the field.

Q.9.-- What income if any did said infants have during this period that you have been supporting them?

A.-- They had no income except the rents or income from the farm, their part of the same.

Q.--10.-- Please state what you consider the fair cash rental value of said farm?

A.-- I would put it at something like \$75.00 per year.

Q.11.-- Was there a house on said lands at the time it was purchased, and if so what has become of said house.

A.-- There was a house on the land when it was purchased and it has since burned down. it was burned in about the year 1900.

Q.12.-- Please state whether or not said house was insured, who paid the premium, and the amount thereof, and how much was realized out of said insurance when the house was burned?

A.-- It was insured. I had it insured and paid the premium of \$11.50. When the house was burned I got \$686 insurance thereon. The policy was for \$700.00, and on the adjustment I got \$686.

Q.13.-- Has there been another house built in place of the one that was burned, if so please state what the same cost, and who paid for the same?

Obj.-- Excepted to as irrelevant and immaterial, because no authenticity has been shown for the investment of any of the infants' money in real estate or otherwise.

J. W. Orr for plff.

A.-- I have built another house in place of the one which was burned. It cost something like \$500.00, and I paid for it out of said insurance money.

Q. 14.-- Did you spend any other of this insurance money towards replacing anything destroyed by said fire, if so what?

Obj.-- Excepted to for same reasons stated above.

J.W.Orr, for plff.

A.-- I re-built a smoke house which was burned, which is worth \$20.00. I rebuilt the yard fence which was also burned, which cost about \$5.00. The furniture which was in the house at the time of the fire was about all burned. It belonged to Florence Johnson and these children. I bought furniture to replace this at a cost of \$75.00. It was principally for the use of these children.

Q.15.-- Was it necessary to rebuild this house on said farm and to refurnish the same for the use of said children, and do you consider the expenditure of the money for the same ^{paid} as judicious expenditure, and one which was for the benefit of said wards?

Obj.-- Excepted for reasons heretofore stated from time to time
J.W.Orr for plff.

A.--I do consider said expenditures for rebuilding said house necessary and proper, and for the benefit of said children. The house is built of good material, was four rooms, boxed building, with porch, with brick chimney. I think it is worth fully \$500.00

Q.16.--Please state what permanant improvements if any you have put upon said land since you have been upon the same, and the cost of the same?

Obj.-- Excepted to because irrelvant and immaterial.
J. W. Orr, for plff.

A.-- I have put up some fencing on the land, which cost something over \$100.00. I have sowed grass two years on some of the land but have gotten no set.

Q.17.-- Please state what funds if any, other than the matters hereinbefore testified about, have come into your hands as guardian of said wards?

A.-- Nothing else has actually come into my hands, however, there has been paid to my attorneys Messrs Duncan & Gridlin, so I am informed by them, the sum of \$301.37. This money was ordered to be paid to me as guardian of said wards by a decree entered in the Chancery cause of James V. Walden vs. TJJ. Fisher et al, in which chancery cause said wards were defendants. Of this sum said attorneys paid back to the Commissioner having charge of said funds in said suit the sum of \$8.00 taxes, which said Commissioner had forgotten to pay, and I have recently settled with my attorneys and am to pay them the sum of \$50.00 as their fee in said cause, which would leave in their hands the sum of \$243.37 for me as

guardian of said wards. This money was paid to my attorneys as I am informed on Sept. 19, 1905. I did not hear that they had this money for me for some little time, and when I did I came to receive the same and found my attorneys in Court engaged so that they did not have time to settle on that day, when I came again I found that this suit had been brought and I left it here in the bank where they have it deposited. I also collected a small amount. \$7.00 I think from Alfred Johnson. I collected this before I was appointed guardian. This was the first year we moved on the land, in 1899, it was paid mostly in corn which was used for the family. I have never collected another dollar for said wards. I know of nothing else that should have come into my hands. Florence Johnson has some old debts and accounts, which she holds as administrator of the estate of Hiram P. Johnson, which she cannot collect. She has made her final settlement in the State of Tennessee where she was appointed, and these debts were reported insolvent in that settlement.

Q.18.-- Please state how much there is of the tract of land purchased from J.W.Glass et al, how much of the same is cleared and in cultivation, and whether or not said land was well worth the sum contracted to be paid therefor by Florence Johnson, and how much the said tract is reasonably worth at the present time?

A.-- The deed calls for 168 acre more or less surface measure, and I suppose there is that much of it. I think there is about half of it cleared but not all of this is in cultivation. There is a portion of the cleared land that is pretty badly grown up in bushes, but there is some grass in it for cattle, then there is a portion of it that is rocky and cannot be cultivated well. I think the land was well worth the money paid for it. I think she made a good investment. I think it is reasonably worth \$1800.00 at this time.

Cross Examination.

X.Q.1.-- I believe you state there is 168 acres in the tract and about one-half of it is cleared land. What kind of crops have you been raising on the land?

A.-- Corn, wheat and a few oats, and awhile there was about 30 acres in meadow grass, but I did not mow it all, grazed some of it.

X.Q.2.-- How much corn do you usually produce on the farm?

A.-- I will say that the corn would average 350 bushels per year.

X.Q.3.-- How much wheat have you raised on an average?

A. -- About 35 bushels.

X.Q.4.-- How much oats on an average?

A.-- About 30 bushels. I have raised some some years and some years none.

X.Q.5.-- How much meadow have you cut on an average on the farm?

A.-- About 8 acres.

X.Q.6.-- How much pasture land on the farm that has not been cultivated in crops?

A.-- About 50 acres that might be called grazing land; there is no first class grazing land on it.

X.Q.7.-- How many acres in corn this year and what is the prospect for a crop?

A.-- About 30 acres in corn this year. It is just a tolerable prospect; it is not a good one, and I have seen sorrier ones.

X.Q.8.-- What seems to be the matter with it; Want of cultivation or bad season?

A.-- It has been too wet on the bottom land, the up land is a fair crop. There is about 18 acres in the bottom land, and about 12 of the up land.

X.Q.9.-- How many bushels of wheat was produced on the place this year?

A.-- 58 1/2 bushels. And a few oats. I have sowed 3 or 4 acres of millet on the land that was in wheat, this year.

X.Q.9.-- When were you married to the widow Johnson?

A.-- I was married in the fall of 1898.

X.Q.10.-- ~~Has the tract of land ever been assigned to you and the lands~~

Has the tract of land ever been partitioned between your wife and said children and her interest laid off to her?

A.-- It has not.

X.Q.11.-- Do you remember the date when you received the money for the house burned, if so state it?

A. I do not remember the date now, but I will get it and send it to the Commissioner, and he can insert it here. *January 8th, 1902*

X.Q.12.-- How many chimneys were to the house that was burned and what kind were?

A.--There were two chimneys two stories high, They were of brick.

X.Q.13.-- How many chimneys did you put to the new house and what kind?

A.-- One chimney, one story high, five feet at the bottom out of stone, and the balance brick. It was a single chimney.

X.Q.14.-- What did you do with the brick that came out of the two chimneys to the house that was burned?

A.-- I sold 1400 brick for \$7.50 or \$8.00; I built the chimney to the new house out of some of them, and the flue. Lots of the brick when we took the chimneys down were not good, and that was all I got out of them.

X.Q.15.-- Was there any other houses on the farm after the one that was burned, in which the family could have lived?

A.-- There was one other house but the family could not reasonably lived in it. This was one room box house with a shed to it, and there was also a log cabin house, which I afterwards sold to a man to paint the new house, but he has never painted it yet, and it has not been painted..

X.Q.16.-- If I understand you correctly the new house was a box house with two rooms and partition between them, ~~xxx~~ in the main building and ~~ell~~ with kitchen and dinning room, and it is intended to be partition between them, and it is ready to go in but has not yet been put in, and there is porch to the main building and also a porch to the ~~ell~~, and the entire building covered with two foot boards, and the chimney as you have above stated at one end of the main building, and a flue in the kitchen from the ceiling up, the foundation of stone pillars, the rooms in the main building ceiled overhead, and ~~xxxxxxxxxxxx~~ the ~~ell~~ is also seiled overhead, is this correct?

A.-- That is correct.

X.Q.17.-- Who built the new house?

A.-- James Herd and Robert Johnson done the Carpentering work.
John Hilton built the chimney.

X.Q.18.-- How much did you pay the Carpenters for their work?

A.-- They took the job for \$42.00

X.Q.19.-- What did you pay Hilton for the chimney?

A.-- I paid him and other hands that helped about \$17.50

X.Q.20.-- Please state how many feet of each kind of lumber it took to build the house, and what it was reasonably worth delivered off the ground?

A.-- I cannot answer that here, but I think I have an account of it at home, and I will bring or send it over to be filed as apart of my deposition.

X.Q.21.-- Did you not collect a debt from James Miner and Mary Templeton?

A.-- I did not; my wife collected a debt, or she made arrangements to take some wheat on a debt, and after we were married I went and I went and got the wheat from Miner. I think there was 14 bushels of this wheat. This was a debt that Miner owed H.P. Johnson's estate. I think was perhaps 60 cents per bushel at that time. I did not collect anything from Mary Templeton, nor did my wife that I know of.

X.Q.22.-- What become of a cane mill that was there that belonged to the estate?

Obj.-- The foregoing question is objected to because irrelevant to the issues in this case. Mrs. Johnson was administrator of the estate and has settled fully her account.

Geo.P. Cridlin, for deft.

A.-- The estate and Alfred Johnson owned a cane mill in partnership, it had been used quite a while before I was guardian. I bought two or three new boilers for it, and we used it on the place, and ground cane for other people for pay. I was using it and broke the neck off of one of the rollers. I finally sold it, or rather traded it to a one eyed white steer calf worth about \$6.00. Before selling it I kept it in repair, almost made it new.

X.Q.23.-- Did you ever call on your wife as administratrix of H.P. Johnson, deceased to turn over to you as guardian for the plain-

tiffs all the funds in her hands as such administratrix due to your said wards?

A.--Not that I know of.

Re- Examination.

Q.-- Do you know whether or not your wife had anything in her hands as administratrix of said estate coming to said children, after you were appointed guardian, or had she paid out all the funds in herhands belong to said estate into said lands?

A.--To my own knowledged my wife had previously paid out all the funds in her hands going to said wards, into the lands which she had purchased.

And further this deponent saith not.

H. Robinson

Bertha Manners by
vs. { Deposition of
 { H. Robinson
H. Robinson

Met to pursuant to adjournment, Aug. 29, 1906

Present: same parties

Floyd Robison re-cross examined, deposes as follows:

Q.-- Do you remember the date of the death of H.P. Johnson, if so give it ?

A.-- I do not remember the date but I think it was about four years before I married his widow.

Q.--- Was not your youngest ward born before his death ?

A.-- She was a short time before his death.

Q.--- Then if Motis was born a short time before his death in 1894 and you was appointed Guardian in Oct. 1900, she must to have been six years old at least at the time of your appointment in-stead of two, was she not?

A.---I was just mistaken, she must of been six years old.

Q.-- Was there not about two years difference between the age of the children?

AQ.---I think there was about two years between thier ages.

Q.-- Please state on what portion of the farm the plank fence is situated thst you said you built and when you built it and how much there is of it and what kind of fence?

A.-- It is about the center of the farm and encloses both sides of the lain from pasture land to water, there are about sixty panels along the lain , panels being six or seven feet long from post to post, three and four plank to the panel there is about forty panels in the corn field and pasture fiêld, which is about like the other, there is another string near the house, of from thirty to forty panel about like the others.

And futher this deponant saith not.

The depositions of L.B.Duncan,

_____ taken by the agreement of the parties before M.G.Ely Special commissioner in his office in the town of Jonesville, Va., on 29th day of Aug. 1906, to be read as evidence in behalf of plaintiffs in a matter of account pending before said commissioner, in the chancery cause of Bertha M. Maness by and so forth, against Floyd Robison Guardian an so forth et al. Present: James W. Orr counsel for plaintiffs,

Geo. P. Cridlin counsel for defendant,

The said L.B.Duncan, a witness of lawful age being duly sworn, deposes as follows:

Q.1.-- Please state your age, residence and occupation.

A.-- Sixty four years old, live on "Hickory hill" in the Black water country, and am a farmer.

Q.2.-- How far from the land do you live on which Floyd Robison resides ?

A.-- About a mile or a little over, and have lived there some twenty odd years, and have known that farm all that time.

Q.3.--What do you consider the fair cash rental value of the said farm per year, since Oct. 1900?

A.-- I expect it ought to be worth \$70 or \$75. per year.

Q.4.--How much grain do you think of each kind has been produced on said farm each year since Oct. 1900, or should have been produced by proper cultivation on said farm?

A.--I have seen some pretty good crops of corn, raised by Mr. Robison and gathered by him and supposethey may have averaged from three to four hundred bushels, and I remember one year that the corn crop was from four to five hundred bushel, I have not much idea what the wheat, oats, and meadow crops have been worth during that period, as to the pasture a good deal of it is old fields broom-sage, with bushes in it, upon the whole I think the pasture ought to be worth \$20. per year.

Q.5.-- What do you think the dwelling house, out-buildings, garden, and orchard should be worth annually

A.--I think \$25. per year.

Q.6.-- Please state what wheat, corn, and oats are generally worth in that community, ^{sub.} wheat \$1. corn \$.50 oats \$.40

Q.7.-- What do you, think the hay crop has been worth annually on an average for that period?

A.--I suppose the rent of the hay crop ought to have been worth \$8. per year.

Q.8.-- What do you think the new house erected by Mr. Robison on the farm, after the other was burned reasonably worth, or what should it have cost to have built it?

A.--I think it could have been built for \$150.

Q.9.--State if you know what the plank fence put up by Mr. Robison on the place since 1900, could have been built for.

A.--The most I know about the plank fence is the lain spoken of by Mr. Robison, and I suppose this string could have been built for \$15.

Q.10.-- I will ask you what is the condition of the farm now, compared with what it was in the year 1900, as to its state of cultivation, fencing, &c.

A.--I do not think the condition is any better, and I think the fencing is not as good.

Q.11.--Are you well acquainted with the children of H.P. Johnson Dec. of which Mr. Robison is Guardian, and have you known them since his death ?

A.--I am well acquainted with them.

Q.12.--Please state whether or not any of these children and if any, which one of them have been old enough and physically able to work and pay for their support and maintenance, or any part thereof since, Oct. 1900?

A.--I am satisfied that Bertha the oldest one has been able to pay her way, and I think the next oldest to her has been able to pay her's, I think the older of the two younger ones could have paid her way, while the youngest one I think could have paid half of its way,

Bertha M. Mausby
vs & Deposition of
L.B. Duncan
Floyd Robinson

withers claims -

L.B. Duncan.	.74
Abraham Johnson	.74
Hamp. Robinson	.74
A.D. More	.74
D.H. McPherson	1.20

\$3.42

To the Honorable H.A.W. Skeen, Judge of the Circuit Court of Lee County, Va.,
Your undersigned commissioner, appointed by decree of your honor's Court, on the 23rd day of May, 1906 in the chancery cause of Bertha M. Maness by ect. against Floyd Robison Guardian ect. pending in your honors court, begs to report as follows, after giving the parties ^{due} interest and timely notice.

I proceeded on the 24th day of Aug., 1906 at my office in the town of Jonesville to perform the duties required of me, by the afore said decree, and after adjourning from time to time, report, that, I took a few depositions which are here filed, and made a part of this report, and after ~~taking~~ evidence, your commissioner reports, that Florence Robinson the mother of the plaintiffs, made a judicious and beneficial investment, when she purchased the land, of J.W. Glass and had it deeded to herself and her four children, and paid for same with money in her hands, as administrator of H.P. Johnson Dec. and belonging to her and her four children. Your commissioner reports that her and her children should hold said land, equally, one-fifth each, free from any claim of Floyd Robinson. Your commissioner reports that Floyd Robison Guardian should not be charged with any rents, and profits, from said land since, his qualification as Guardian as he has supported and maintained his said wards, and educated them some, and that the support and maintenance should be set off against the rents and profits.

Your commissioner reports that Floyd Robison Guardian should be charged with \$350.00, money received from an Insurance Co., for house burned, after rebuilding, which charged to him with compound interest from Jan. 8th 1902 time received, to Sept. 19th amounts to \$460.40, and that said Guardian should be charged with \$243. amount in hands of Duncan & Cridlin, with interest from Sept. 19th, 1905, which amounts to \$257.58 Sept. 19th, 1906, and ~~making~~ a grand total of \$717.99, in hands of Floyd Robinson Guardian, as of Sept. 19th, 1906, to be equally divided among the four children, of H.P. Johnson Dec. which gives to each child \$179.49 each- Mr. Robison the Guardian should pay the costs of this suit as plaintiffs have substantially prevailed.

Respectfully Submitted

M. G. Ely Special Commissioner

Virginia Lee County to-wit:-

I, M.G. Ely do certify that I have been ¹diligently engaged in stating and making up this account, not less than 24 hrs. and charge, \$18.

M.G. Ely
Commissioner.

Bertha M. Manssby
No { { Commission
 { { Report,

Floyd Robinson Quady.

Filed Aug. 31, 1906.

H. C. J. Ewing
Clerk.

Commission Fee \$18⁰⁰ P. L. E.
D. M. E.

1906.
Sept 26th

Playd. Robinson paid James W. Orr.
for Bertha M. Maness Receiver, Arthur & Maness, \$158.60

Also Atty's fee \$15.00 + Carr's fee \$18.00

Atty's fee retained \$15.00

Paid Cely Carr his fee 18.00

Commission retained and \$179.78 - 8.98

Fee in partition still retained 25.00

Sept 26th. Check to Arthur & Maness Receiver for - 124.62
- Bertha M. Maness, \$179.60

Sept 26th. Robinson should pay O. N. 5 per cent on the amt.
decreed in favor of the other three heirs
\$179.49 which is \$8.97 each = \$26.91

Bertha M. Marzess ^{by}
-100-

Memo.

Bertha M. Maness, By A&C.

Plaintiff.

vs.

In Chancery.

Floyd Robinson, et al,

Defendants.

So much of the answer of Floyd Robinson filed in this cause May 22nd, 1906, as is embraced between lines No. 25 and 82, and including lines No. 97 and 98 is excepted to because the same sets up no legal defense to the bill of the plaintiff. This is a suit simply for the settlement of the Guardianship account of the said Floyd Robinson, and should not be complicated with any transaction between him and his wife, Florence Robinson formerly Florence Johnson. And the said Florence Robinson as administratrix of the estate of her husband H. P. Johnson, deceased, had no right to invest any of the money belonging to the said estate in real estate or otherwise, but it was her duty after the debts were paid to pay over to the guardian of the infants of what ever sum of money ~~as~~ may have been in her hands due to them, and it was likewise the duty of Floyd Robinson as their guardian to collect from the said administratrix any funds in her hands due to his said wards. And he had no right to invest the same in real estate or otherwise for his said wards without the order and direction of the proper court, and he should be held to account for all such funds as were received by him as such guardian, or that should by due diligence have come into his hands as such guardian from what so ever source the same may have been or could have been derived, and that is the object of this suit.

Amey Noel p.g.

Bertha M. Wrensch by
vs { Exceptions to Sub
Hazel Robinson Guard
&c.

Filed May 22nd 1906.

2604.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Floyd Robinson and Alfred Johnson.

AMERSEUS

RECEIVED

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *1st* Monday in *April*, 190*6*, to answer a bill in chancery exhibited against *Therby*

Bertha M. Mauss, an infant, who sues by Arthur A. Mauss, her receiver and next friend, and Alpha B. Johnson, Laura Johnson & Mollie Johnson, infants, who sue by Arthur A. Mauss, their next friend.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *21st* day of *March*, 190*6*, and 1*30th* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

Bertha M. Maueas, by re. et al.

VS } SUBPOENA
IN
CHANCERY.

Floyd Robinson, et al.

Orr & Noel, p. q

To 1st April Rules.

Lee Circuit Court.

1906.

Executed on March 24th 1906
by delivering true copy of the
within Summary to Floyd
Robinson and Alfred
Johnson this March 24th
1906 D. H. Mahan D. S. \$1.00
for P. M. Ball, S. J. C

The Commonwealth of Virginia,

To the Sheriff of the County of Lee--Greeting:

WE COMMAND YOU, That you summon

Abraham Johnson, Hampton
Robinson, Lee Duncan, James Wood, Robert
Johnson - A P Moore

M. G. O'By
to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof on the *29th*
day of *Aug. 1906*, 189 , to testify and the truth to say in behalf of the

Plaintiff
in a certain matter of controversy in our said Court, before the said ~~Judge~~ *Commissioner* depending and undetermined between

Betha Mawers by etc Plaintiff. and

H. Robinson et al Defendant.

And have then there this writ. Witnes, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *24*
day of *Aug 1906*, 189 . and in the *31* year of the Commonwealth.

A copy--Teste:

M. G. O'By Clerk.
Commissioner

XXXXXXXXXXXXXXXXXXXX

Bertha Moore

Vs.

} SUBPENA
FOR
WITNESS.

H. Robinson

XXXXXXXXXXXXXXXXXXXX

Circuit Court, the 29th day
of Aug. 1906 189 .

Executed on the 27 day
of August 1906 by
Sumner Abraham
Johnson Lee Duncan
James Herd Hampton
Robinet Robert Johnson
A. P. More

L. H. Mahan
D. S. Har Pen. Ball. S. L.
cast for Sumner
Witness 120